

# PATENT COOPERATION TREATY

From the  
INTERNATIONAL SEARCHING AUTHORITY

To:

# PCT

**Translation**

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

To:		Date of mailing (day/month/year)	<b>See Form PCT/ISA/210 (sheet 2)</b>
Applicant's or agent's file reference <b>BCT040159/CN</b>		<b>FOR FURTHER ACTION</b> See paragraph 2 below	
International application No. <b>PCT/FR2004/002766</b>	International filing date (day/month/year) <b>27.10.2004</b>	Priority date (day/month/year) <b>31.10.2003</b>	
International Patent Classification (IPC) or both national classification and IPC <b>A23C9/123</b>			
Applicant <b>RHODIA CHIMIE</b>			

1. This opinion contains indications relating to the following items:

<input checked="" type="checkbox"/>	Box No. I	Basis of the opinion
<input type="checkbox"/>	Box No. II	Priority
<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
<input type="checkbox"/>	Box No. IV	Lack of unity of invention
<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
<input type="checkbox"/>	Box No. VI	Certain documents cited
<input type="checkbox"/>	Box No. VII	Certain defects in the international application
<input type="checkbox"/>	Box No. VIII	Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/EP	Authorized officer
Facsimile No.	Telephone No.

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International application No.

PCT/FR2004/002766

Box No. I

Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.  
☐ This opinion has been established on the basis of a translation from the original language into the following language  
\_\_\_\_\_, which is the language of a translation furnished for the purposes of international search (under Rule 12.3 and 23.1(b)).
2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
  - a. type of material  
☐ a sequence listing  
☐ table(s) related to the sequence listing
  - b. format of material  
☐ in written format  
☐ in computer readable form
  - c. time of filing/furnishing  
☐ contained in the international application as filed.  
☐ filed together with the international application in computer readable form.  
☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE  
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**PCT/FR2004/002766**

**Box No. V** Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

**1. Statement**

Novelty (N)	Claims	<u>3</u>	YES
	Claims	<u>1, 2, 4-8</u>	NO
Inventive step (IS)	Claims	<u>3</u>	YES
	Claims	<u>1, 2, 4-8</u>	NO
Industrial applicability (IA)	Claims	<u>1-8</u>	YES
	Claims	<u></u>	NO

**2. Citations and explanations:**

Reference is made to the following documents:

- D1: LITOPOULOU-TZANETAKI ET AL: "Biotechnologically important metabolic activities of pediococcus isolates from milk and cheese" MICROBIOLOGIE ALIMENTS NUTRITION 1989 FRANCE, vol. 7, no. 2, 1989, pages 113-122, XP009032098 ISSN: 0759-0644
- D2: EP-A-0 574 681 (QUEST INT) 22 December 1993 (1993-12-22)
- D3: US-A-4 880 743 (MATROZZA MARK A ET AL) 14 November 1989 (1989-11-14)
- D4: BHOWMIK T ET AL: "CHARACTERISTICS OF LOW-FAT CHEDDAR CHEESE MADE WITH ADDED MICROCOCCUS OR PEDIOCOCCUS SPECIES" MILCHWISSENSCHAFT, VV GMBH VOLKSWIRTSCHAFTLICHER VERLAG. MUNICH, DE, vol. 45, no. 4, 1990, pages 230-235, XP000134265 ISSN: 0026-3788
- D5: ANONYMOUS: "Low-fat Cheddar taste improved by adding *Pediococcus* bacteria." MODERN DAIRY 1992, vol. 71, no. 1, February 1999 (1999-02), page 28, XP009032087

**Novelty**

The present application fails to comply with the requirements of PCT Article 33(1) since the subject matter of independent claim 1 does not meet the requirement of novelty defined in PCT Article 33(2).

D1 (page 120, paragraph 3) and D2 (page 4, lines 1-38) anticipate the subject matter of claim 1.

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**Inventive step**

The feature of claim 3 is not disclosed in the documents cited in the international search report. It is suggested that the applicant should draft a new independent claim with a view to introducing this feature therein.

**Remarks**

Contrary to the requirements of PCT Rule 5.1(a)(ii), the relevant prior art disclosed in documents D1 and D2 is not mentioned in the description, nor are these documents identified therein.